IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL MISCELLANEOUS APPLICATION(BAIL) NOS. 97 AND 98 OF 2007

CRIMINAL MISCELLANEOUS APPLICATION(BAIL) NO.97 OF 2007

Dashmesh Prabhu Dessai
S/o Atmaram Prabhu Dessai
Aged 22 years, service,
R/o House No.10/39,
Mahapurush Temple,
Kotkarwadda, Pednem, Goa. ... Applicant

versus

1. State through P.I.
   Pednem Police Station
   Pednem, Goa.

2. Public Prosecutor
   Panaji, Goa. ... Respondents

CRIMINAL MISCELLANEOUS APPLICATION (BAIL) NO.98 OF 2007

Jai Uttam Kashalkar
S/o Uttam Kashalkar
Aged 23 years, service,
R/o House No.658,
Panshiwada, Pednem, Goa. ... Applicant

versus

1. State through
   P.I.Pednem Police Station
   Pednem, Goa.

2. Public Prosecutor Panaji,
Goa. ... Respondents

Mr. Siddharth Samant, Advocate for the Applicants.

Mr. C. A. Ferreira, Public Prosecutor for the Respondents.

CORAM : N. A. BRITTO, J.

DATE : 3RD MAY, 2007.

ORAL ORDER

Heard the learned Counsel on behalf of the applicants and the learned Public Prosecutor on behalf of the respondent.

2. The applicants herein are two out of six accused involved in Crime No. 31/2007 registered at Respondent No.1 Police Station under Sections 143, 147, 341, 323, 324, 427, 504, 506(ii) r/w 149 IPC. Two of the accused are yet to be arrested and the other two were arrested on 3-4-2007 and subsequently were ordered to be released on bail by the learned J.M.F.C. by Order dated 5-4-2007.

3. It appears that out of an incident which took place on 17-3-2007 two FIR's came to be registered. In FIR No.30/2007 registered under Sections 143, 147, 341, 323, 325, 504, 506(ii), 427 r/w 149 IPC all the six accused were arrested and were released on bail.

4. The applicants herein had approached the Court of Sessions for grant of anticipatory bail but their application came to be rejected by Order dated 28-3-2007, inter alia, on the ground that the presence of the applicants was required, for the recovery of the weapons and/or for effective investigations. In the reply filed, the same has been taken as a ground to oppose the grant of anticipatory bail to the present applicants. However, it is not made clear as to whether the present applicants are in possession of the weapons, namely a danda and an iron rod which was used at the time of commission of the offences alleged. Although, two of the accused were arrested and were in custody for a period of two days no much information could be elicited from them as to which of the accused were in possession of the said weapons. The complainant also appears to be silent as to which of the accused went away with the weapons of assault. Considering the aforesaid facts, anticipatory bail could not be denied to the present applicants on the general allegation that their presence would be required for recovery of the weapons of assault. Hence, they would be entitled to the grant of anticipatory bail, and, shall be released, in the event of their arrest, upon execution of Rs.5000/- each with one surety in the like amount to the satisfaction of the I.O. and with a further condition that the applicants shall attend the Police Station for further investigation for a period of three days between 8.00 a.m. to 1.00 p.m. from tomorrow.

N. A. BRITTO,

RD